

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Southwest Power Pool, Inc.

Docket No. ER06-641-000

Southwest Power Pool, Inc.

Docket No. ER06-451-000

ORDER ON PROPOSED TARIFF REVISIONS

(Issued April 14, 2006)

1. In this order, the Commission addresses proposed tariff revisions submitted by Southwest Power Pool, Inc. (SPP) to incorporate an executed external market monitor services agreement (EMM Agreement) between SPP and Boston Pacific Company, Inc. (Boston Pacific) into Attachment AJ of SPP's open access transmission tariff. As discussed below, we find that SPP's filing clarifies the division of responsibilities between SPP's internal and external market monitors, and to the extent that any responsibilities overlap, provides for a means of resolution in cases of conflict between the market monitors.<sup>1</sup> Accordingly, we will conditionally accept SPP's filing effective January 1, 2006, subject to a compliance filing due no later than 60 days from the date of this order.

**Background**

2. Order No. 2000 requires that a proposal for a regional transmission organization (RTO) contain a market monitoring plan designed to identify market design flaws, market power abuses and opportunities for efficiency improvement, and to propose appropriate actions.<sup>2</sup>

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<sup>1</sup> See *Southwest Power Pool, Inc.*, 112 FERC ¶ 61,303 at P 38 (*September 19 Order*), denied, 113 FERC ¶ 61,115 (2005); also *Southwest Power Pool, Inc.*, 114 FERC ¶ 61,289 at P 134-135 (2006) (*March 20 Order*).

<sup>2</sup> *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809

(continued)

3. SPP has been authorized as an RTO since October 1, 2004,<sup>3</sup> and submits the proposed tariff revisions under section 205 of the Federal Power Act (FPA),<sup>4</sup> pursuant to Commission orders addressing SPP's market monitor.<sup>5</sup>

4. As a prerequisite to obtaining RTO status, SPP was required to have an independent market monitor to monitor the competitiveness and efficiency of the market.<sup>6</sup> In addition, SPP was directed to provide its market monitoring plan, including its market power mitigation measures, no later than 60 days prior to implementing its energy imbalance market (imbalance market).<sup>7</sup> Upon evaluation of SPP's compliance

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(January 6, 2006), FERC Stats. & Regs. ¶ 31,089 at 31,155-56 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Public Utility District No. 1 of Snohomish County, Washington, et al. v. FERC*, 272 F.3d 607 (D.C. Cir. 2001). In particular, market monitoring must include: (1) evaluating the behavior of market participants in the RTO-administered markets, including transmission owners, to identify adverse effects of their conduct on the RTO's ability to provide reliable, efficient, and nondiscriminatory service; (2) periodically assessing whether behavior in the markets in the RTO's region that are operated by others affects the RTO operations; and (3) filing with the Commission and other affected regulatory bodies reports on market design flaws, market power abuses in the RTO-operated markets, and on opportunities of market efficiency.

<sup>3</sup> See *Southwest Power Pool, Inc.*, 109 FERC ¶ 61,009 (2004) (*October 1 Order*), *order on reh'g*, 110 FERC ¶ 61,137 (2005).

<sup>4</sup> 16 U.S.C. § 824d (2000).

<sup>5</sup> See *Southwest Power Pool, Inc.*, 106 FERC ¶ 61,110 at P 163-74 (*February 10 Order*), *order on reh'g*, 109 FERC ¶ 61,010 at P 63-69 (2004); *Southwest Power Pool, Inc.*, 108 FERC ¶ 61,003 at P 92-99 (*July 2 Order*) (order on compliance filing pursuant to *February 10 Order*), *order on compliance*, 109 FERC ¶ 61,009 at P 70-86 (2004), *order on reh'g*, 110 FERC ¶ 61,137 at P 21-25 (2005); *Southwest Power Pool, Inc.*, 110 FERC ¶ 61,046 (2005) (order on compliance filing pursuant to *October 1 Order*); *September 19 Order*, 112 FERC ¶ 61,303 at P 35-58; *March 20 Order*, 114 FERC ¶ 61,289 at P 129-152.

<sup>6</sup> *February 10 Order*, 106 FERC ¶ 61,110 at P 2 and 172.

<sup>7</sup> *February 10 Order*, 106 FERC ¶ 61,110 at P 173. The Commission found that SPP's market monitoring plan should include: (1) appropriate market power mitigation measures to address market power problems in the spot markets; (2) a clear set of rules

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filing to the *February 10 Order*, the Commission expressed concerns regarding the independence and possible conflicts-of-interest of SPP's chosen market monitor and directed SPP to submit its independent market monitor agreement.<sup>8</sup> Upon submission of SPP's Independent Market Monitoring Services Agreement (IMM Agreement), the Commission directed SPP to further edit the agreement to address the Commission's concerns.<sup>9</sup> Noting that the Order No. 2000's market monitoring requirements may be satisfied with various market monitoring unit structures, the Commission observed that SPP may propose another structure, such as an internal market monitoring unit, consistent with what the Commission had approved for other RTOs.<sup>10</sup>

5. As part of its imbalance market proposal, SPP submitted its market monitoring and market mitigation plan that provided that an internal market monitor and an external market monitor would fulfill SPP's market monitoring function.<sup>11</sup> In the *September 19 Order*, the Commission rejected SPP's proposed market power mitigation and market monitoring plan and reiterated that SPP's proposed plan needed to provide a clear set of rules governing market participant conduct, the potential consequences if rules are violated, and the areas on which SPP's market monitor (internal and external) would report.<sup>12</sup> The Commission also found that neither the IMM Agreement, nor SPP's tariff, provided sufficient detail regarding the respective roles of the internal market monitor

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governing market participant conduct, with the consequences for violations clearly spelled out; (3) the process that the independent market monitor would use if it found that the markets were not providing appropriate incentives for investment in needed infrastructure; and (4) periodic reports prepared by the independent market monitor. These periodic reports were to incorporate market metrics to provide a basis for measuring performance of these markets across RTOs and ISOs, and to compare the performance of the market in each RTO or ISO over time. Also, we stated that metrics will also be developed to provide standard performance information on a monthly basis.

<sup>8</sup> *July 2 Order*, 108 FERC ¶ 61,003 at P 98.

<sup>9</sup> *July 2 Order*, 108 FERC ¶ 61,003 at P 98; *see also October 1 Order*, 109 FERC ¶ 61,009 at P 83-85, *order on reh'g*, 110 FERC ¶ 61,137 at P 24-25.

<sup>10</sup> *October 1 Order*, 109 FERC ¶ 61,009 at P 86.

<sup>11</sup> *See Southwest Power Pool, Inc.'s filing in Docket No. ER05-1118-000 on June 15, 2005.*

<sup>12</sup> *September 19 Order*, 112 FERC ¶ 61,303 at P 1 and 11.

and the external market monitor.<sup>13</sup> SPP was directed to clarify the division of responsibilities between the internal market monitor and the external market monitor, in order to provide for accountability and to ensure that monitoring and mitigation obligations were satisfied.<sup>14</sup> Also, to the extent that any responsibilities overlap, SPP was required to provide a means to resolve conflict between the internal and external market monitors.<sup>15</sup> Other specific guidance was also provided in the Commission's order.<sup>16</sup>

6. SPP resubmitted its proposed market monitoring (Attachment AG) and market mitigation (Attachment AF) plans on January 4, 2006.<sup>17</sup> SPP proposed that an independent but internal market monitoring unit would primarily perform the market monitoring and report to the SPP's President and SPP's Board of Directors (Board).<sup>18</sup> SPP proposed that an external market monitor, under contract to SPP, may perform certain market monitoring services as specified in its contract with SPP, as delegated by SPP pursuant to the terms of the contract.<sup>19</sup> The Commission found in the *March 20 Order* that SPP had failed to elaborate on the split of functions between its internal and external market monitors, but, noting SPP's commitment to file a separate contract delineating the responsibilities of the external market monitor in this docket (Docket No. ER06-641-000), the Commission conditionally accepted SPP's market monitoring proposal, subject to further orders.<sup>20</sup>

7. On February 15, 2006, SPP filed an executed agreement between SPP and Boston Pacific to enable Boston Pacific to serve as SPP's external market monitor. In this filing, SPP proposes to revise Attachment AJ of its tariff to incorporate the EMM Agreement.

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<sup>13</sup> *September 19 Order*, 112 FERC ¶ 61,303 at P 38.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *See id.* at P 35-58.

<sup>17</sup> Docket No. ER06-451-000.

<sup>18</sup> *March 20 Order*, 114 FERC ¶ 61,289 at P 129.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at P 134. Commission also ordered compliance filings on other aspects of SPP's market monitoring and market mitigation plan. *Id.* at 129-152.

The EMM Agreement was executed by SPP and Boston Pacific in February 2006, and states that it has a term from January 1, 2006 through December 31, 2006.<sup>21</sup> SPP states that the EMM Agreement replaces the expired IMM Agreement in its entirety.

8. SPP states that the EMM Agreement was ratified by its independent Board on January 31, 2006.

### **Notice of the Filing and Responsive Pleadings**

9. Notice of the filing was published in the *Federal Register*,<sup>22</sup> with comments, protests, and interventions due on or before March 8, 2006. Redbud Energy LP filed a timely intervention. A timely intervention and limited protest was filed by the Missouri Joint Municipal Electric Utility Commission, Oklahoma Municipal Power Authority and the West Texas Municipal Power Agency (collectively, TDU Intervenors). A timely intervention and protest was filed by: East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (collectively, East Texas Cooperatives). TDU Intervenors and East Texas Cooperatives suggest deleting or modifying certain aspects of the EMM Agreement because they believe that those provisions limit the independence and effectiveness of the external market monitor. SPP filed an answer to the protests.

10. SPP requests waiver of the Commission's 60-day prior notice requirement to allow Attachment AJ to become effective January 1, 2006. SPP states that it submitted this filing promptly upon conclusion of its negotiations with Boston Pacific and the execution of the EMM Agreement. SPP contends that the requested effective date is necessary since SPP's previous agreement with its external market monitor expired on December 31, 2005. It also claims that its requested effective date is consistent with Commission precedent.<sup>23</sup>

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<sup>21</sup> EMM Agreement, Paragraph 11, First Revised Sheet No. 699.

<sup>22</sup> 70 Fed. Reg. 10,492 at 10,493 (2006).

<sup>23</sup> SPP's transmittal letter at n.4 and 19 citing to *City of Girard v. FERC*, 790 F.2d 919 (D.C. Cir. 1986); *Central Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (*Central Hudson*).

### **Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits answers to protests unless otherwise ordered by the decisional authority. We will accept SPP's answer because it has provided information that assisted us in our decision-making.

### **Waiver of Prior Notice Requirement**

13. Section 205(c) of the FPA and the Commission's regulations require that public utilities file rates for jurisdictional service at least 60 days prior to the commencement of service.<sup>24</sup> The Commission has the discretion to grant waiver of the 60-day prior notice requirement for good cause shown.<sup>25</sup> Consistent with *Central Hudson*, we find good cause exists to grant SPP's request for waiver and therefore, we accept the EMM Agreement to become effective on January 1, 2006.<sup>26</sup>

### **Substantive Matters**

#### **Description of the EMM Agreement (Attachment AJ)**

14. According to SPP, the EMM Agreement outlines the general relationship between SPP and the external market monitor. SPP proposes to delegate to the external market monitor the responsibilities that focus on market design and periodic monitoring of the market. SPP states that the internal market monitor will provide all of the market monitoring functions not explicitly delegated to the external market monitor. SPP also proposes that, under the EMM Agreement, the external market monitor's tasks may be modified from time to time upon mutual agreement among the parties.

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<sup>24</sup> 16 U.S.C. § 824d(c) (2000); *see also* 18 C.F.R. § 35.3(a) (2005).

<sup>25</sup> 16 U.S.C. § 824d(d) (2000); 18 C.F.R. §§ 35.3(a) and 35.11 (2005).

<sup>26</sup> *Central Hudson*, 60 FERC ¶ 61,106 at 61,338 (Commission generally grants waivers for filings that do not change rates).

15. Exhibit A of the EMM Agreement lists the external market monitor's responsibilities, rights and obligations.<sup>27</sup> The external market monitor will have the following responsibilities: (1) propose to the Board and design market power mitigation measures and market monitoring plan; (2) support SPP in obtaining Commission approvals, including the preparation of testimony and participation in conferences, at SPP's request and under the supervision or direction of the Board or its designate; (3) recommend to the Board updates to the market power mitigation measures and market monitoring plan; (4) conduct periodic monitoring to identify and assess trends in market behavior; (5) produce (a) an Annual State of the Market Report, (b) Quarterly and Annual Metrics Reports for Inter-RTO Comparison and (c) Quarterly Reports on Instances of Market Power and provide such reports to entities as required by SPP's tariff; (6) review SPP's market design and recommend changes to the Board as necessary; (7) produce an Annual Review of the internal market monitor for SPP's Board; (8) respond to requests for information and reports requested by the Commission, a market participant, or interested government agency,<sup>28</sup> as directed by the Board; (9) respond to inquiries as requested by the Commission, a market participant, or interested government agency, as directed by the Board; (10) attend SPP meetings as requested by the Board or the internal market monitor; (11) aid the internal market monitor in other tasks mutually agreed to by the external market monitor and the internal market monitor; and (12) advise the Board at its request.<sup>29</sup>

16. The external market monitor's rights and obligations under Exhibit A of the EMM Agreement are as follows.<sup>30</sup> The external market monitor is required to report to the Board and obtain Board approval for its activities. The external market monitor and SPP's internal market monitor have to coordinate their activities, including all communications with Commission Staff, state regulators, the Commission, and the Regional State Committee, and notify each other of those communications prior to their taking place. The external market monitor has to seek the advice of the internal market

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<sup>27</sup> EMM Agreement, Exhibit A, Responsibilities, Rights, and Obligations (Exhibit A), First Revised Sheets Nos. 702-703.

<sup>28</sup> Interested Government Agency is defined as “[t]he FERC and any state regulatory commission or agency with regulatory oversight responsibilities for SPP Transmission Owners.” Attachment AG, section 2.5, First Revised Sheet No. 682 (accepted but not effective until SPP's imbalance market begins operation).

<sup>29</sup> EMM Agreement, Exhibit A, First Revised Sheets Nos. 702-703.

<sup>30</sup> *Id.* at First Revised Sheet Nos. 703-705.

monitor where appropriate, and vice versa. The external market monitor has to draft reports to SPP for review prior to publication and give full consideration to SPP feedback on such drafts, but SPP is not allowed to screen, alter, delete or delay the external market monitor's findings, conclusions and recommendations. Any market participant or interested government agency may raise any issue with the internal market monitor and request that the external market monitor consider the issue in its monitoring and reporting. The external market monitor may include such an issue in its monitoring or reporting if it determines it is appropriate to do so and after it obtains the permission of the Board and coordinates with the internal market monitor. The external market monitor may obtain input from the internal market monitor, the Market Working Group, Commission staff, SPP staff, the Regional State Committee, and any other SPP organizational group to execute its duties provided it coordinates with the internal market monitor. The external market monitor has to coordinate its reporting with the internal market monitor prior to submitting its reports and note any disagreements in the report that the internal market monitor may have with the external market monitor. The external market monitor and its subcontractors have to abide by the conflicts of interest and code of ethics policies contained in the EMM Agreement to ensure their independence from all market participants. The external market monitor will have access to all data and information gathered or generated by SPP in the course of its operations to the extent relevant to its tasks assigned by the EMM Agreement, and SPP will aid the external market monitor in obtaining the data relevant to its tasks from market participants. The external market monitor may bring any matter to the Board's attention, subject to coordination with the internal market monitor.

17. Exhibit B of the EMM Agreement is the "Statement of Work" that specifies the tasks that the external market monitor has to undertake to fulfill its responsibilities.<sup>31</sup> The EMM Agreement also contains two other exhibits. Exhibit C addresses the compensation of the external market monitor.<sup>32</sup> Exhibit D contains the conflicts of interest provisions that the external market monitor has to abide by, and includes the "Code of Ethics" as Attachment D-One that all employees and subcontractors of the external market monitor are required to sign.<sup>33</sup>

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<sup>31</sup> Original Sheet Nos. 705A-705C.

<sup>32</sup> EMM Agreement, Exhibit C, Compensation, First Revised Sheet Nos. 706-07.

<sup>33</sup> EMM Agreement, Exhibit D, Conflicts of Interest, First Revised Sheet Nos. 708-09, and Attachment D-One, Code of Ethics for SPP EMM Engagement, First Revised Sheet Nos. 716-17.

### **Split of Functions Between Internal and External Market Monitor**

18. In the *March 20 Order*, the Commission found that SPP had failed to elaborate on the split of functions between its internal and external market monitors, but noting that SPP had filed a proposed EMM Agreement, the Commission conditionally accepted SPP's market monitoring proposal, subject to further orders.<sup>34</sup> We find that the EMM Agreement read in conjunction with SPP's conditionally accepted market monitoring plan, as modified by the *March 20 Order*, adequately details the responsibilities of SPP's internal and external market monitors. Once SPP's imbalance provisions become effective, SPP's internal market monitor will have the primary responsibility for administering the monitoring and mitigation plan.<sup>35</sup> The external market monitor will only have those responsibilities delegated to it by the EMM Agreement, *i.e.*, the external market monitor will serve periodic reporting and market design functions.<sup>36</sup> SPP must file a modified EMM Agreement with the Commission prior to any changes to this delegation of authority to the external market monitor. Therefore, we find that the internal market monitor will retain primary responsibility, unless SPP makes a specific delegation to the external market monitor. Also, if there is an overlap in responsibilities between the external and internal market monitors, the market monitors are required to coordinate with each other.<sup>37</sup> We conclude that this proposed split of functions for the monitoring in the SPP RTO after implementation of the imbalance market, and as modified below, is just and reasonable.

### **Monitoring Prior to Imbalance Market Implementation**

19. SPP proposes a new EMM Agreement to replace its existing market monitoring services contract in its entirety. The proposed EMM Agreement coupled with the market monitoring plan in Attachment AG allows the internal and external market monitors to share responsibilities, with each entity serving different support and coordination functions. However, in its filing in Docket No. ER06-451-000, SPP requested an

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<sup>34</sup> *March 20 Order* at P 134.

<sup>35</sup> EMM Agreement, Exhibit A, First Revised Sheet No. 702.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at Paragraphs 2 and 8, First Revised Sheet No. 704.

effective date for the market monitoring plan in Attachment AG of May 1, 2006.<sup>38</sup> Thus, the internal market monitor does not have any monitoring authority or responsibilities until Attachment AG becomes effective at the start of the imbalance market. As a consequence, SPP has not completely provided for the monitoring required by Order No. 2000 for the time period prior to the implementation date of the imbalance market.

20. Therefore, we direct SPP to modify the proposed Attachment AJ to provide that the external market monitor will meet all of the Commission's prescribed requirements for RTO market monitoring for the period from January 1, 2006 to the date of the imbalance market implementation at which time Attachment AG will become effective. During this period, the external market monitor will perform the functions delegated to it under the EMM Agreement and those assigned to the internal market monitor under Attachment AG as modified by the *March 20 Order*.<sup>39</sup> At a minimum, the external market monitor's responsibilities should include: (1) evaluating the behavior of market participants in the RTO-administered markets, including transmission owners, to identify adverse effects of their conduct on the RTO's ability to provide reliable, efficient, and nondiscriminatory service; (2) periodically assessing whether behavior in the markets in the RTO's region that are operated by others affects the RTO operations; and (3) filing with the Commission and other affected regulatory bodies reports on market design flaws, market power abuses in the RTO-operated markets, and on opportunities of market efficiency. Further, we direct SPP to modify Attachment AJ to clarify that the proposed provisions referencing the internal market monitor are applicable for the period starting with imbalance market implementation and continuing for the remainder of the year. We direct SPP to make this compliance filing 60 days from the date of this order.

21. SPP proposes to change the title of Attachment AJ from "Independent Market Monitoring (IMM) Service Agreement" to "External Market Monitor Services Agreement," but does not propose to modify the table of contents of its tariff to reflect this title change. Also, it appears that the pagination of "First Revised Fifth Revised

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<sup>38</sup> The Commission suspended the proposed tariff modification, including Attachment AG, for five months and made them effective concurrent with the start of the imbalance market on October 1, 2006, subject to further orders. *March 20 Order*, 114 FERC ¶ 61,289.

<sup>39</sup> *Id.* at P 129-152.

Sheet No. 6” (the relevant page of the table of contents) is not in compliance with Order No. 614.<sup>40</sup> We direct SPP to modify the tariff table of contents to reflect the correct agreement and file the revised sheet with the correct pagination.

### **External Market Monitor’s Obligation to Respond to Stakeholder Concerns**

#### **Protest**

22. TDU Intervenors argue that SPP’s requirement that the external market monitor obtain the Board’s permission prior to responding to stakeholder concerns could interfere with the external market monitor’s independence and effectiveness.<sup>41</sup> For example, if the stakeholder concerns reflect poorly on SPP’s markets, the Board may deny the external market monitor’s request to address the concern. TDU Intervenors recognize that the requirement that the external market monitor obtain the Board’s permission may stem from a desire by SPP to ensure that the external market monitor’s activities remain within the budget. TDU Intervenors seek a modification to this provision so that Board permission is sought only for stakeholder requests that would cause the external market monitor to exceed its budget. They suggest that a general requirement that the external market monitor inform the Board of stakeholder concerns is more reasonable. They argue that, in the least, the provision should state that the Board cannot unreasonably withhold its permission.

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<sup>40</sup> *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221 (March 31, 2000), FERC Statutes and Regulations ¶ 31,096 (2000).

<sup>41</sup> Paragraph 5 of Exhibit A of the EMM Agreement states that:

Any Market Participant or Interested Government Agency may raise any issue with the Market Monitor and request that the EMM consider the issue in its monitoring and reporting. With the permission of the Board of Directors and in coordination with the Market Monitor, the EMM may include this issue in its monitoring or reporting if it determines it is appropriate to do so.

### **SPP's Answer**

23. SPP argues that there is no reason to require the external market monitor to be independent of SPP's Board, which is independent of all market participants. It notes that under Commission precedent, the market monitoring function of an RTO can be entirely internal.<sup>42</sup> SPP argues that its obligation to compensate the external market monitor is capped, therefore, if the external market monitor is paid less than the cap, the costs to SPP's members are reduced. Moreover, it notes that its Board has a fiduciary duty to provide proper oversight and management over the external market monitor under the EMM Agreement and the associated expenses, which will be borne by SPP's members.<sup>43</sup> SPP suggests that if TDU Intervenors are concerned about SPP's ability to promptly approve any necessary action by the external market monitor, the Compliance Committee can be convened as often as necessary to approve action by the external market monitor. Therefore, it contends that requiring the approval of the Board or the Compliance Committee will not impede progress.

### **Discussion**

24. We find it is necessary that the external market monitor obtain the Board's permission prior to responding to stakeholder concerns to prevent increased market monitoring costs that will be borne by the members of SPP. However, to avoid any potential for the Board to interfere with the external market monitor, we direct SPP to modify Paragraph 5 of Exhibit A of the EMM Agreement to state that the Board cannot unreasonably withhold its permission. SPP's clarification that the Compliance Committee may be convened as often as necessary to approve action by the external market monitor is helpful and we urge the stakeholders to seek this committee's help in obtaining prompt approval of any necessary action by the external market monitor.

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<sup>42</sup> See *ISO New England Inc.*, 106 FERC ¶ 61,280 at P 188 (2004); *PJM Interconnection, L.L.C.*, 96 FERC ¶ 61,061 at 61,239 (2001).

<sup>43</sup> See SPP Membership Agreement at section 2.3.

## **External Market Monitor's Reporting of Potential Violations in Other RTO Markets**

### **Protest**

25. TDU Intervenors contend that the external market monitor should be allowed to consider complaints regarding any market that affects or could be affected by SPP's markets and services. TDU Intervenors argue that Task 8 of Exhibit B<sup>44</sup> is too narrow and will allow SPP and the external market monitor to claim that SPP's markets and services are limited to only those markets or services that SPP administers, such as the transmission and proposed imbalance markets. TDU Intervenors also argue that such a provision could disable the external market monitor from reporting activity to the Commission that violates the Commission's rules simply because the activity does not involve a SPP market. According to TDU Intervenors, Task 8 is in contravention to the Commission's direction in *Southwest Power Pool, Inc.*, that "[an] RTO must periodically assess how behavior in markets operated by others . . . affects RTO operations, and conversely, how RTO operations affect the performance of power market operated by others" and that "in carrying out its market monitoring function, SPP must satisfy this standard, or demonstrate that an alternative proposal is consistent, with or superior to, it."<sup>45</sup> TDU Intervenors also argue that a market monitor is required to notify Commission staff "[i]f, in the course of monitoring participant behavior, [the market monitor] finds that an action by a market participant may require investigation or evaluation, or may be a potential violation of a market rule contained in an ISO/RTO-filed tariff, or may be a violation of the Market Behavior Rules."<sup>46</sup> TDU Intervenors argue that the Commission's oversight of wholesale markets and the exercise of its market

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<sup>44</sup> "EMM should not monitor or report on any complaint pertaining to issues not related to SPP's Markets and Services or activities not monitored and overseen by the EMM." EMM Agreement, Exhibit B, Task 8, Original Sheet No. 705C.

<sup>45</sup> 109 FERC ¶ 61,010 at P 67 (citing Order No. 2000 at 31,146) (*footnotes omitted*).

<sup>46</sup> *Policy Statement on Market Monitoring Units*, 111 FERC ¶ 61,267 at P 6 (2005). Subsequently, the Commission clarified that its "Policy Statement applies to potential violations of the new Order No. 670 anti-manipulation rule in lieu of Market Behavior Rule 2, and will apply to the requirements of Market Behavior Rules 1, 3, 4, 5, and 6 to the extent they are incorporated into other parts of the Commission's regulations." *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 114 FERC ¶ 61,165, P 23 and n.33 (2006). *Prohibition of Energy Market*  
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manipulation authority<sup>47</sup> will be undermined if the external market monitor was not permitted to report on potential violations that did not directly concern an SPP-administered market.

**SPP Answer**

26. SPP argues that the internal market monitor will be responsible for considering any complaints regarding any market that affects or could be affected by SPP's markets and services, as this responsibility was not specifically delegated to the external market monitor in the EMM Agreement.<sup>48</sup> SPP argues that the Commission's precedent allows an RTO's internal market monitor to perform the entire market monitoring function and, therefore, there is no requirement that this particular function be performed by an external market monitor. It notes that under the EMM Agreement, SPP can seek the external market monitor's assistance if SPP believes it is needed in such matters.<sup>49</sup> Furthermore, SPP can also engage the external market monitor in a separate agreement to conduct

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*Manipulation*, Order No. 670, 71 Fed. Reg. 4,244 (Jan. 26, 2006), FERC Stats. & Regs. ¶ 31,202 (2006). In February, 2006, the Commission rescinded Market Behavior Rules 2 and 6. *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, "Order Revising Market-Based Rate Tariffs and Authorizations," 114 FERC ¶ 61,165 (2006). In a concurrent order, the Commission codified Market Behavior Rules 1, 3, 4, and 5 in its regulations at 18 C.F.R. §§ 35.36 and 35.37. *Conditions for Public Utility Market-Based Rate Authorization Holders*, 71 Fed. Reg. 9,695 (February 27, 2006).

<sup>47</sup> 114 FERC ¶ 61,165 at P 23.

<sup>48</sup> The EMM Agreement specifically states that all duties not specifically delegated to the external market monitor will be provided by SPP's internal market monitor. EMM Agreement, Exhibit A, First Revised Sheet No. 702.

<sup>49</sup> See EMM Agreement, Exhibit A, Paragraph 12, First Revised Sheet No. 703 (providing that the external market monitor will advise SPP's Board as requested by the Board).

other duties as needed.<sup>50</sup> Finally, SPP asserts that because both SPP and the EMM are independent from all potential market participants, either entity may adequately perform this function.

### **Discussion**

27. Once SPP implements the tariff provisions for its proposed imbalance market, the internal market monitor will be responsible for assessing the effect of markets and services not administered, coordinated or facilitated by SPP on SPP's markets and services.<sup>51</sup> Additionally, section 4.1 of Attachment AG provides that the internal market monitor will assess the effect of adjacent markets on SPP's markets and services and the impact of SPP's markets and services on adjacent markets. In the *March 20 Order*, the Commission accepted section 4.1 of Attachment AG.<sup>52</sup> We further find that section 4.1 of Attachment AG meets the Order No. 2000 requirement that SPP "periodically assess how behavior in markets operated by others . . . affects RTO operations, and conversely, how RTO operations affect the performance of power market operated by others."<sup>53</sup> After the imbalance market is implemented, we will not require the external market monitor to duplicate the efforts of the internal market monitor in assessing markets operated by others. We find that the provisions of Attachment AG, as modified by the *March 20 Order*, will allow for reporting by the internal market monitor of potential violations that do not directly concern an SPP-administered market.<sup>54</sup>

28. Further, as discussed above, we direct SPP to modify Attachment AJ to satisfy the Order No. 2000 requirements in the period prior to imbalance market implementation. Among other changes that will be required, we direct SPP to modify the EMM Agreement to provide that during the period from January 1, 2006 to the date of the imbalance market implementation, the external market monitor will assess how behavior in markets operated by others affects SPP operations and how SPP operations affect the

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<sup>50</sup> See EMM Agreement, Paragraph 1, First Revised Sheet No. 696 (the external market monitor's services may be modified from time to time upon mutual agreement of SPP and Boston Pacific).

<sup>51</sup> Attachment AG, section 4.1.

<sup>52</sup> *March 20 Order* at P 141.

<sup>53</sup> 109 FERC ¶ 61,010 at P 67 (2004) (citing Order No. 2000 at 31,146).

<sup>54</sup> *March 20 Order* at P 146.

performance of markets operated by others. Further, we direct SPP to modify the EMM Agreement, so that during this interim period, the external market monitor is empowered to report to the Commission in a timely manner any violations of the Commission's regulations on market manipulation.<sup>55</sup> This modification will allow for the external market monitor to report to the Commission on any potential manipulation that it encounters in the course of periodically assessing markets operated by entities other than SPP. SPP is directed to submit a compliance filing no later than 60 days from the date of this order.

### **Compliance with SPP's Bylaw § 3.17**

#### **Protest**

29. TDU Intervenors assert that Attachment AJ conflicts with SPP's Bylaw § 3.17, because the EMM Agreement appears to leave the retention of an external market monitor up to SPP's discretion,<sup>56</sup> while the bylaw requires SPP to retain an independent contractor as a market monitor.<sup>57</sup> The TDU Intervenors also argue that SPP's bylaws require an external market monitor.

#### **SPP Answer**

30. SPP notes that SPP's Bylaw § 3.17 states that SPP will "establish and provide appropriate support to a market monitoring function through an independent contractor," but does not require SPP to outsource all market monitoring functions. It also points out that under the Commission's precedent, an external entity is not required to perform all market monitoring functions. SPP suggests that the TDU Intervenors' argument is premature because such a concern would only arise if SPP no longer retained an independent contractor to perform any market monitoring functions.

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<sup>55</sup> 18 C.F.R. § 1C.2.

<sup>56</sup> Attachment AJ, Original Sheet No. 695A references section 3.1 of Attachment AG, which states that "SPP may delegate certain responsibilities pursuant to a contract with an External Market Monitor."

<sup>57</sup> "SPP shall establish and provide appropriate support to a market monitoring function through an independent contractor possessing the requisite experience and qualifications." SPP Bylaw § 3.17. *See* Southwest Power Pool Bylaws (Bylaws), Original Volume No. 4, effective May 1, 2004.

### **Discussion**

31. We disagree with the TDU Intervenors, that Attachment AJ conflicts with SPP's Bylaw § 3.17. The Commission has found that the Order No. 2000's market monitoring requirements may be satisfied with various market monitoring unit structures and, in fact, allowed SPP to propose another structure, such as an internal market monitoring unit, consistent with what the Commission had approved for other RTOs.<sup>58</sup> We accepted SPP's proposal to fulfill its market monitoring function by an independent internal market monitor and an independent external market monitor, provided that the responsibilities were clear to ensure that monitoring and mitigation obligations were satisfied.<sup>59</sup> Therefore, we find that SPP's retention of Boston Pacific satisfies its Bylaw § 3.17 that "SPP shall establish and provide appropriate support to a market monitoring function through an independent contractor."

### **Delegation of Authority by Board over External Market Monitor**

#### **Protest**

32. East Texas Cooperatives assert that the statement in the EMM Agreement allowing the Board to delegate authority to "any committees or persons to which the [Board] has assigned certain responsibilities"<sup>60</sup> appears to allow for the delegation of the Board's authority over the external market monitor to any SPP committee or employee. They believe this language conflicts with the statement that recognizes that placing the external market monitor under the authority of the Board and having the external market monitor report directly to the Board is critical to the independence of the external market monitor.<sup>61</sup> East Texas Cooperatives assert that the Commission should direct SPP to revise the first paragraph of the agreement to make clear that the Board cannot delegate away its authority over the external market monitor in order to ensure that the external market monitor maintains its independence.

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<sup>58</sup> *October 1 Order*, 109 FERC ¶ 61,009 at P 86.

<sup>59</sup> *March 20 Order* at P 134-35; *see generally September 19 Order* at P 38.

<sup>60</sup> EMM Agreement, First Revised Sheet No. 696.

<sup>61</sup> "The EMM shall be retained by and report to the [Board]. All EMM activities must be communicated to and approved by the [Board] in a manner defined by the [Board]. The independence of the EMM is derived from the independence of the [Board]." EMM Agreement, Exhibit A, Paragraph 1, First Revised Sheet No. 703.

**SPP Answer**

33. SPP states that under its bylaws, the Board retains ultimate authority over the external market monitor, even though the Board has assigned the oversight of the external market monitor to the Compliance Committee pursuant to Bylaw § 6.4. SPP explains that the relevant language in the EMM Agreement is intended to allow its Board to delegate responsibility to smaller working groups, such as the Compliance Committee, so that the entire Board would not need to be convened to address all market monitoring issues. According to SPP, the Compliance Committee consists of three Board members who will have access to SPP senior staff. SPP emphasizes that no stakeholders will be involved in the oversight of the EMM. SPP argues that such delegation of the Board's authority is reasonable because SPP and its staff are entirely independent of all potential market participants.

**Discussion**

34. We agree with the East Texas Cooperatives that the language of the EMM Agreement appears to permit the Board to delegate authority over the external market monitor to any SPP group or individual. While the EMM Agreement would allow broader delegation of the Board's authority over the external market monitor, we note that only the Compliance Committee is identified by SPP in the EMM Agreement<sup>62</sup> and SPP's answer<sup>63</sup> as the entity to which the Board will delegate its authority. In order to avoid unauthorized delegation, we direct SPP to modify the first paragraph of the EMM Agreement to clarify that the Board may only delegate its authority over the external market monitor to the Compliance Committee. We agree with TDU Intervenors that the independence of the external market monitor is important, but note that SPP's delegation of the Board's authority to a Compliance Committee is reasonable because the Compliance Committee is made up of Board members and is therefore independent of the market participants. We also find helpful SPP's clarification that no stakeholders will be involved in the oversight of the external market monitor.

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<sup>62</sup> EMM Agreement, Exhibit B, Original Sheet No. 705A ("For purposes of Exhibit B, the term Board of Directors is synonymous with Compliance Committee of the Board of Directors.")

<sup>63</sup> SPP's answer at 4.

**External Market Monitor's Assistance to SPP in Obtaining Approvals****Protest**

35. East Texas Cooperatives suggest that the EMM Agreement specify the approvals the external market monitor will assist SPP in obtaining at its request,<sup>64</sup> in order for the Commission and SPP's stakeholders to fully understand the scope of the external market monitor's responsibilities. They question whether the external market monitor will assist SPP in obtaining approvals only for tariff provisions relating to SPP's market mitigation measures and monitoring plan, or also provide support for SPP's proposed imbalance markets, transmission expansion and cost allocation policies.

**SPP Answer**

36. SPP states that it initially intended to seek the external market monitor's assistance in obtaining Commission approvals related to the imbalance market and market monitoring and market mitigation plan. However, SPP asserts that there is no reason why the Board should be prohibited from requesting the external market monitor's assistance in other matters requiring Commission approval, for example, SPP may seek the external market monitor's assistance in proposing a market design revision that was recommended by the external market monitor. In addition, SPP points out that the external market monitor's assistance will help the Commission because it expects the external market monitor to make only accurate representations to the Commission.

**Discussion**

37. We find that SPP sufficiently specifies, in the EMM Agreement, that the external market monitor will assist SPP in obtaining Commission approval for market monitoring and mitigation matters, therefore, there is no need to define the scope of the external market monitor's responsibilities.

38. The EMM Agreement has to be read as a whole. The EMM Agreement delegates the responsibilities that focus on market design and periodic monitoring to the external market monitor.<sup>65</sup> The external market monitor is responsible for supporting SPP in

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<sup>64</sup> The external market monitor's responsibilities include "[a]t the request of SPP, supporting SPP in obtaining Commission approvals including the preparation of testimony and participation in conferences." EMM Agreement, Exhibit A, Paragraph 2, First Revised Sheet No. 703.

<sup>65</sup> EMM Agreement, Exhibit A, First Revised Sheet No. 702.

obtaining Commission approvals under the supervision of or at the direction of the Board.<sup>66</sup> Exhibit B of the EMM Agreement elaborates on the external market monitor's responsibilities by breaking these responsibilities into specific tasks. It states that "[t]he EMM will assist SPP in obtaining final [Commission] approval for the Market Power Mitigation Plan and Market Monitoring Plan submitted as part of SPP's [Imbalance] Market filing[.]"<sup>67</sup> Thus, we find that the external market monitor's scope of work will focus on obtaining approvals of SPP's monitoring and mitigation plan for the imbalance market. If SPP proposes to modify the scope of the external market monitor's responsibilities laid out in the EMM Agreement, it must seek Commission approval for such changes.

### **External Market Monitor's Attendance at Stakeholder Meetings**

#### **Protest**

39. Under the EMM Agreement, the external market monitor will attend SPP meetings at the request of the Board or Market Monitor.<sup>68</sup> East Texas Cooperatives argue that the external market monitor should also be required to attend SPP stakeholder meetings at the request of individual stakeholder groups. Noting that the SPP stakeholder process is the primary vehicle for SPP's stakeholders to provide input into the development and operation of the SPP RTO, East Texas Cooperatives argue that the external market monitor's presence will allow a dialogue between the external market monitor and various stakeholders with questions and concerns.

#### **SPP Answer**

40. SPP notes that the external market monitor attends meetings at the request of the Board or the Compliance Committee.<sup>69</sup> SPP explains that if a stakeholder group would like the external market monitor to attend a meeting, it may ask the Compliance Committee to direct the external market monitor to do so. However, SPP contends that such a request by one stakeholder group does not automatically mean that the external

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<sup>66</sup> EMM Agreement, Exhibit A, Paragraph 2, First Revised Sheet No. 703.

<sup>67</sup> EMM Agreement, Exhibit B, Task 1, Original Sheet No. 705A.

<sup>68</sup> EMM Agreement, Exhibit A, Paragraph 10, First Revised Sheet No. 703.

<sup>69</sup> *Id.* (but language states at the request of the Board or internal market monitor, not Compliance Committee).

market monitor's attendance is justified. Since SPP is responsible for compensating the external market monitor attending any such meeting, SPP argues that it is reasonable to condition the external market monitor's attendance upon the approval of the Compliance Committee or the Board.

### **Discussion**

41. We believe that it is just and reasonable to condition the external market monitor's attendance to a stakeholder meeting upon the approval of the Compliance Committee or the Board, given that SPP and, ultimately, its customers bear the cost for the external market monitor's presence at such meetings. Given that the EMM Agreement provides a vehicle for external market monitor's attendance at stakeholder meetings, we deny East Texas Cooperatives' request to impose a requirement that the external market monitor attend stakeholder meetings at the request of an individual stakeholder group. We will, however, require SPP to reconcile the inconsistency between SPP's answer (Board and Compliance Committee) and the EMM Agreement language (Board and internal market monitor) on who can authorize the external market monitor's attendance to a stakeholder meeting in SPP's compliance filing.

### **SPP's Review of External Market Monitor's Draft Reports**

#### **Protest**

42. East Texas Cooperatives argue that requiring the external market monitor to submit draft reports to SPP for review prior to publication compromises the independence of the external market monitor. Specifically, they object to the language in the EMM Agreement requiring the external market monitor to "give full consideration to SPP feedback on such drafts."<sup>70</sup> Furthermore, East Texas Cooperatives are not convinced that the provision that "SPP may not screen, alter, delete, or delay the external market monitor's findings, conclusions, or recommendations," is adequate to prevent SPP from attempting to influence the external market monitor to alter its findings.

#### **SPP Answer**

43. SPP argues that since the external market monitor will be working in conjunction with SPP's internal market monitor, this provision allows both market monitors to reconcile any issues or disagreements concerning the facts before a report is issued. According to SPP, the external monitor has sought SPP review to ensure factual and

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<sup>70</sup> EMM Agreement, Exhibit A, Paragraph 4, First Revised Sheet No. 704.

technical accuracy, as well as the pertinence of the reports. It argues that the statement that “SPP may not screen, alter, delete or delay the EMM’s findings, conclusions or recommendations” offers adequate protection.

### **Discussion**

44. We are not convinced that allowing SPP to review and comment on draft reports prior to their publication will compromise the independence of the external market monitor. We interpret the proposed EMM Agreement to prohibit SPP from forcing the external market monitor to change any findings or recommendations. Further we interpret the phrase “give full consideration to SPP feedback” as requiring the external market monitor to listen to SPP’s feedback, but not necessarily take action in response to that feedback. Therefore, we reject East Texas Cooperatives’ request to alter this provision of the EMM Agreement.

### **External Market Monitor’s Access to Data and Information**

#### **Protest**

45. The EMM Agreement proposes that the “EMM shall have access to all Data and Information gathered or generated by SPP in the course of its operations to the extent relevant to its tasks assigned by this agreement.”<sup>71</sup> East Texas Cooperatives argue that this provision is vague and must be revised to state that the external market monitor shall have access to the data and information that the EMM determines is necessary for the EMM to perform its assigned tasks.

#### **SPP Answer**

46. SPP contends that the EMM Agreement strikes the appropriate balance between limiting distribution of confidential information and providing the external market monitor with sufficient access to relevant information. SPP notes that its bylaws specifically require SPP’s President to ensure that the external market monitor has adequate access to information in order to effectively execute its duties. However, SPP recognizes the need to balance the interests of its members by limiting the distribution of confidential information to the fewest number of parties, while providing the external market monitor with sufficient access to relevant information. SPP contends that, for example, if the requested information pertained to a matter being handled by just the

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<sup>71</sup> EMM Agreement, Exhibit A, Paragraph 11, First Revised Sheet No. 704.

internal market monitor, SPP would not provide the information to the external market monitor, unless SPP determined that the internal market monitor required the assistance of the external market monitor.

### **Discussion**

47. We deny East Texas Cooperatives' request to modify the language related to the external market monitor's access to data and information. As we noted in the *March 20 Order*, the Commission has approved and instituted broad data collection and retention provisions.<sup>72</sup> The Commission also noted that the market participants have an opportunity to challenge data and information requests for data or information by the internal market monitor not specified in SPP's tariff if such information imposed a substantial burden or expense, or was not relevant.<sup>73</sup> SPP was also directed to work with the internal market monitor to specify the format and content of the data and information that market participants need to retain.<sup>74</sup> Given the level of coordination between the internal and external market monitors, we find that our clarification in the *March 20 Order* addresses East Texas' concern and no change to Paragraph 11 of Exhibit A is necessary.

### **Reports to be Prepared and Reviewed by the External Market Monitor**

#### **Protest**

48. According to East Texas Cooperatives, Task 4 requires the external market monitor to prepare the 2005 Annual State of the Market Report, but then limits the external market monitor's role to reviewing drafts of Quarterly and Annual Metrics Reports for Inter-RTO Comparisons prepared by the internal market monitor.<sup>75</sup> Therefore, East Texas Cooperatives seek a clarification on the roles of the external market monitor and the internal market monitor in preparing the 2005 Annual State of the Market Report, and further detail on what will be contained in the report.

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<sup>72</sup> *March 20 Order* at P 152 and n.146-47.

<sup>73</sup> *Id.* at P 152 citing Attachment AG, sections 8.3 and 9.2.

<sup>74</sup> *Id.* at P 152.

<sup>75</sup> EMM Agreement, Exhibit B, Original Sheet No. 705B.

### **SPP Answer**

49. SPP explains that the 2005 Annual State of the Market Report is different from the Quarterly and Annual Metrics Reports for Inter-RTO comparisons. SPP notes that the EMM Agreement explicitly assigns the task of producing the Annual State of the Market Report to the external market monitor.<sup>76</sup> It also notes that SPP's internal market monitor is primarily responsible for quarterly and other reports required by the Commission, but may engage the external market monitor if additional resources are required.<sup>77</sup>

### **Discussion**

50. We grant East Texas Cooperatives' request for clarification because we find that the EMM Agreement contains inconsistent statements with regard to the production of reports. Paragraph 5 of Exhibit A states that the external market monitor will “[p]roduce (a) an Annual State of the Market Report, (b) Quarterly and Annual Metric Reports for Inter-RTO Comparison and (c) Quarterly Reports on Instances of Market Power.”<sup>78</sup> However, Task 4 of Exhibit B states that the external market monitor will prepare the 2005 Annual State of the Market Report and the Quarterly Reports on Instances of Market Power, but limits the external market monitor's role to reviewing the drafts of the Quarterly and Annual Metric Reports.<sup>79</sup> SPP is directed to revise the language in Paragraph 5 and Task 4 to correct this inconsistency.<sup>80</sup> Moreover, we find that the EMM Agreement fails to sufficiently describe each report so that the reports are easily distinguishable. Therefore, we direct SPP to include a description of each the three reports similar to the description contained in SPP's IMM Agreement.

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<sup>76</sup> EMM Agreement, Exhibit A, Paragraph 5(a), First Revised Sheet No. 703.

<sup>77</sup> EMM Agreement, Exhibit A, Paragraph 11, First Revised Sheet No. 703 (the external market monitor will aid SPP's internal market monitor in additional tasks upon mutual agreement).

<sup>78</sup> EMM Agreement, Exhibit A, Paragraph 5, First Revised Sheet No. 703.

<sup>79</sup> EMM Agreement, Exhibit B, Original Sheet No. 705B.

<sup>80</sup> For example, Paragraph 5 could be edited as follows “Produce an Annual State of the Market Report and Quarterly Reports on Instances of Market Power, and review the Quarterly and Annual Metrics Reports for Inter-RTO Comparison produced by the Market Monitor. The EMM will provide such reports to entities as required by the Tariff.”

51. Further, as discussed above, since the internal market monitor will not share the reporting responsibility until the imbalance market provisions become effective, we direct SPP to modify the EMM Agreement to provide that the external market monitor is responsible for meeting all three reporting requirements in the interim period. Therefore, we direct SPP to modify the EMM Agreement to provide that during the period January 1, 2006 to the date of the imbalance market implementation, the external market monitor will have sole periodic reporting responsibility to meet Order No. 2000 requirements.

**Termination Provision**

52. The IMM Agreement allowed SPP, upon 30 days prior notice, and the independent market monitor, upon 60 days notice, to terminate the contract.<sup>81</sup> However, any termination of the agreement by SPP was subject to the Commission's approval.<sup>82</sup> SPP, in the EMM Agreement proposes that the Board, instead of SPP, may initiate termination of the EMM Agreement and proposes to delete the requirement that any termination of the agreement be subject to the Commission's approval.<sup>83</sup> While we accept the other changes to this paragraph of the EMM Agreement, SPP is directed to keep the language "Any termination of this Agreement by SPP is subject to approval by the Federal Energy Regulatory Commission."

The Commission orders:

(A) SPP's filing is hereby conditionally accepted effective January 1, 2006, as discussed in the body of this order.

(B) SPP is hereby directed to submit a compliance filing no later than 60 days from the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>81</sup> IMM Agreement, Paragraph 9, Original Sheet No. 699.

<sup>82</sup> *Id.*

<sup>83</sup> EMM Agreement, Paragraph 11, First Revised Sheet No. 699.